

## **REMARKS/ARGUMENTS**

The Office Action dated September 20, 2007 has been carefully considered. Claims 10-14 and 17-21 are pending in the application, with claim 10 being the only independent claim. Claims 10 and 21 have been amended. Claims 15 and 16 have been canceled, without prejudice or disclaimer. Reconsideration of the application, as herein amended and in view of the following remarks, is respectfully requested.

### **Allowability of the Claims**

#### **Independent Claim 10**

Claims 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 94/27019 in view of DE 34 25 765 and U.S. Patent No. 4,912,898 (*Holmes*) and further in view of U.S. Patent No. 6,609,350 (*Weber*).

Independent claim 10 has been amended to include the subject matter of now canceled claims 15 and 16. Thus, the above-discussed 35 U.S.C. §103(a) rejection is believed to be applicable to amended claim 10.

Applicant respectfully submits that amended claim 10 is patentable over WO 94/27019 in view of DE 34 25 765, *Holmes* and *Weber* because there is no apparent reason for a person with ordinary skill in the art to modify the glass structure of WO 94/27019 with the teaching of *Weber* in the way proposed in the Office Action.

The combination of WO 94/27019 in view of DE 34 25 765, *Holmes* and *Weber* fails to teach or suggest (1) a frameless transom panel engaging in a channel at the top structure, and (2) the transom panel being connected in frictional engagement with the side panels and with the top structure, as expressly recited in amended claim 1.

On page 4 of the Office Action, the Examiner acknowledges that WO 94/27019 lacks the channels at the top structure and the base with the transom panel and the side panels engaging the channels. To bridge this “gap” between claim 16 and WO 94/27019, the Examiner refers to *Weber*, and contends that *Weber* discloses (1) glazing panels engaging the top and bottom channels 150 and 152, (2) elastic means 154/156 frictionally engaging the glazing to the channels, and that it would have been obvious to modify WO 94/27019 to include the channels with elastic means to provide a strong cohesive unit.

Applicant respectfully disagrees because the channels referred to by the Examiner in *Weber* are used to support a hand railing and have nothing to do with a transom panel.

*Weber* relates to a laminated glass panel (*see* the Abstract of *Weber*). Fig. 11 of *Weber* illustrates a cross section through a glass hand railing 124 incorporating the laminated glass panel 130 of *Weber* (*see* col. 6, lines 5-7 of *Weber*). As clearly shown in Fig. 11 of *Weber*, the hand railing 124 includes an upper railing cap 150 and a lower shoe molding 152. A resilient insert 154 grips the upper end of the panel 130 to hold the panel 130 in the upper railing cap 150. A resilient setting block 156 supports and centers the lower end of the panel 130 in a U-channel 158 in the shoe molding 152. *See* col. 6, lines 17-21 of *Weber*. *Weber* is silent on how the lower shoe molding 152 is affixed to the base. Other embodiments of *Weber* teaches using a resilient setting block to support and center the lower end of a laminated glass panel in a lower rail fitting 28, 212, 228 (*see* Figs. 9, 13 and 14, and col. 5, lines 47-63 of *Weber*). Such rail fittings permit rotation of doors 12, 14 relative to the glass wall 16 (*see* Fig. 1 and col. 3, lines 54-60 of *Weber*). *Weber* is silent on how the glass wall 16 is affixed to the top structure and the base.

Since *Weber* only teaches using the channel/resilient setting block combination to connect a laminated glass panel to an auxiliary part such as a lower shoe molding or a lower rail

fitting, there is no apparent reason for a person with ordinary skill in the art to use this specific teaching of *Weber* to modify the glass structure, the top structure and the base of WO 94/27019 so that the glass panels 3, 5, 8 engage in channel(s) of the top structure and the base and are connected in frictional engagement to the top structure and/or the base by a permanently elastic mass, as now recited in amended claim 10 of the present application.

Regarding the second reason, the Examiner states that *Holmes* discloses a transom panel connected in frictional engagement with the side panels by permanently elastic mass 53/58. However, the butt joint 53 of *Holmes* includes an exterior sealant 58 that does not support the two adjacent panels to each other, frictionally or otherwise. Rather, each panel 11 is connected by a bracket 12 and 30 to a framework member such as member 45 (*see* Fig. 4, col. 6, lines 41-58 of *Holmes*). Accordingly, *Holmes* teaches that each panel 11 is supported on a framework. Thus *Holmes* fails to teach or suggest the transom panel being connected in frictional engagement with the side panels and with the top structure by the permanently elastic mass. Moreover, *Holmes* discloses a glass curtain without a door and thus fails to disclose a transom.

The fact that something can be done is an insufficient basis to obviate an invention. Absent an apparent reason, the references can be modified and/or combined in the way proposed in the Office Action only with impermissible hindsight based on the claimed invention.

In view of the foregoing, withdrawal of the 35 U.S.C. §103(a) rejection of claim 16 (now amended claim 10) is respectfully requested.

#### Dependent Claims 11-14 and 17-21

Dependent claims 11-14 and 17-21 are patentable for at least the same reasons that amended independent claim 10 is patentable, as well as for the additional limitations recited therein.

The indicated allowability of claim 21 is noted with appreciation.

### Conclusion

In view of all of the above, applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested.

It is believed that no fees or charges are required at this time in connection with the application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN PONTANI LIEBERMAN & PAVANE LLP

By



Alfred W. Froeblich

Reg. No. 38,887

551 Fifth Avenue, Suite 1210

New York, New York 10176

(212) 687-2770

Dated: December 20, 2007